

House File 2688 - Introduced

HOUSE FILE _____
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 2652)
(SUCCESSOR TO HSB 679)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for efforts to mitigate odor emitted from a
2 livestock operation including by providing for basic and
3 applied research and evaluations, and including applicability
4 and effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 6414HZ 82
7 da/nh/5

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1 1 DIVISION V
1 2 ODOR MITIGATION FOR LIVESTOCK OPERATIONS
1 3 Section 1. NEW SECTION. 266.40 DEFINITIONS.
1 4 For purposes of this division, the following definitions
1 5 apply:
1 6 1. "Livestock" means beef cattle, dairy cattle, swine,
1 7 chickens, or turkeys.
1 8 2. "Livestock operation" means any area in which livestock
1 9 are kept in a confined space, including a confinement feeding
1 10 operation or open feedlot.
1 11 3. "Livestock producer" means the titleholder of livestock
1 12 or a livestock operation.
1 13 4. "University" means Iowa state university of science and
1 14 technology.
1 15 Sec. 2. NEW SECTION. 266.41 ESTABLISHMENT.
1 16 Iowa state university of science and technology shall
1 17 consult with the department of agriculture and land
1 18 stewardship and the department of natural resources to
1 19 establish and administer livestock odor mitigation efforts to
1 20 reduce the impacts of odor emitted from livestock operations
1 21 involving swine, beef or dairy cattle, chickens, or turkeys as
1 22 provided in this division.
1 23 Sec. 3. NEW SECTION. 266.42 PURPOSES.
1 24 The purposes of this division shall be to further livestock
1 25 odor mitigation efforts as follows:
1 26 1. Further a livestock odor mitigation research effort in
1 27 order to accelerate the adoption of affordable and effective
1 28 odor mitigation technologies and strategies by livestock
1 29 producers, expand the number of affordable and effective odor
1 30 mitigation technologies and strategies available to livestock
1 31 producers, and provide research-grounded information regarding
1 32 odor mitigation technologies and strategies that are
1 33 ineffective or cost-prohibitive.
1 34 2. Develop a livestock odor mitigation evaluation effort
1 35 as provided in section 266.48, which shall be a multilevel
2 1 process to determine the potential odor exposure to persons
2 2 who would neighbor a new livestock operation as proposed to be
2 3 constructed.
2 4 Sec. 4. NEW SECTION. 266.43 DEVELOP AND ADVANCE
2 5 TECHNOLOGIES AND STRATEGIES == APPLIED ON-SITE RESEARCH
2 6 PROJECTS.
2 7 Iowa state university of science and technology shall
2 8 conduct applied on-site research projects to address whether
2 9 odor mitigation technologies or strategies can be successfully
2 10 implemented across many livestock operations, locations, and
2 11 situations, and to analyze the costs of their successful
2 12 implementation and maintenance to accomplish the purposes
2 13 provided in section 266.42.
2 14 1. The projects shall be conducted at livestock operations
2 15 on a statewide basis and under different circumstances.

2 16 2. The university shall evaluate technologies or
2 17 strategies that have a firm foundation in basic and applied
2 18 research but which may further benefit from statewide on-site
2 19 application. The technologies and strategies may include but
2 20 are not limited to the following:

2 21 a. The installation, maintenance, and use of odor
2 22 mitigating devices, techniques, or strategies.

2 23 b. The use of a livestock odor mitigation evaluation
2 24 effort as provided in section 266.48.

2 25 c. The manipulation of livestock diet.

2 26 Sec. 5. NEW SECTION. 266.44 DEVELOP AND ADVANCE
2 27 TECHNOLOGIES AND STRATEGIES == BASIC AND APPLIED RESEARCH
2 28 PROJECTS.

2 29 Iowa state university of science and technology shall
2 30 conduct basic or applied research projects to develop or
2 31 advance technologies or strategies to accomplish the purposes
2 32 provided in section 266.42.

2 33 1. The university shall evaluate technologies or
2 34 strategies that have not been subject to comprehensive
2 35 scientific scrutiny but which demonstrate promise to
3 1 accomplish the purposes provided in section 266.42. The
3 2 technologies and strategies may include but are not limited to
3 3 the following:

3 4 a. The adaption and use of modeling to locate livestock
3 5 operations associated with keeping livestock in addition to
3 6 swine, and to locate livestock operations utilizing odor
3 7 mitigation devices, techniques, or strategies.

3 8 b. The installation, maintenance, and use of odor
3 9 mitigating devices, techniques, or strategies.

3 10 c. The use of topical treatments applied to manure
3 11 originating with livestock operations keeping chickens and
3 12 turkeys.

3 13 2. Nothing in this section restricts the university from
3 14 conducting its evaluation at livestock operations, including
3 15 as provided in section 266.43.

3 16 Sec. 6. NEW SECTION. 266.45 EMERGING TECHNOLOGIES AND
3 17 STRATEGIES == BASIC RESEARCH PROJECTS.

3 18 Iowa state university of science and technology shall
3 19 conduct basic research projects to investigate emerging
3 20 technologies or strategies that may accomplish the purposes
3 21 provided in section 266.42.

3 22 1. The university shall evaluate technologies or
3 23 strategies that demonstrate promise for future development but
3 24 which may require a long-term research commitment.

3 25 2. Nothing in this section restricts the university from
3 26 conducting its evaluation at livestock operations, including
3 27 as provided in section 266.43.

3 28 Sec. 7. NEW SECTION. 266.46 INFORMATION REPORTING.

3 29 In accordance with section 266.42, Iowa state university of
3 30 science and technology is the custodian of all information
3 31 including but not limited to reports and records obtained,
3 32 submitted, and maintained in connection with the research
3 33 projects conducted on the site of a livestock operation as
3 34 provided in this division. The information shall be kept
3 35 confidential by all persons who are in possession of
4 1 information obtained under this division, including but not
4 2 limited to the university and its agents and employees, except
4 3 as provided in section 266.47. For purposes of this division,
4 4 such information is not subject to chapter 22 and shall not be
4 5 made public upon subpoena, search warrant, discovery
4 6 proceedings, or by any other means. A person shall not be
4 7 compelled to disclose the name or address of a livestock
4 8 producer except upon written waiver by the livestock producer
4 9 participating in the research project.

4 10 Sec. 8. NEW SECTION. 266.47 RESEARCH RESULTS == INTERIM
4 11 AND FINAL REPORTS.

4 12 Iowa state university of science and technology shall
4 13 prepare and submit reports as follows:

4 14 1. a. The university shall submit an interim report to
4 15 the general assembly each year on or before January 15,
4 16 through January 15, 2013. The interim report shall do all of
4 17 the following:

4 18 (1) Describe the university's progress in achieving the
4 19 purposes of section 266.42, and detail its efforts in carrying
4 20 out the livestock odor mitigation efforts described in this
4 21 division.

4 22 (2) Evaluate applied and basic research projects being
4 23 conducted or completed and provide estimates for their
4 24 completion.

4 25 (3) Make any recommendation for improving, continuing, or
4 26 expanding livestock odor mitigation efforts and for

4 27 disseminating the results of those efforts to livestock
4 28 producers.

4 29 b. The university shall submit a final report to the
4 30 general assembly on or before six months after the completion
4 31 of its research projects as provided in section 266.41. The
4 32 final report shall include a summary of efforts, the
4 33 university's findings and conclusions, and recommendations
4 34 necessary to carry out the purposes of section 266.42.

4 35 2. Nothing in this section prevents the university from
5 1 compiling information obtained, submitted, and maintained as
5 2 the result of a livestock odor mitigation effort as provided
5 3 in section 266.42 involving a specific livestock operation,
5 4 and publishing that information as part of the report so long
5 5 as the information cannot be used to identify a livestock
5 6 producer or livestock operation without the consent of the
5 7 livestock producer as provided in section 266.46.

5 8 3. Information obtained by the university in connection
5 9 with a research project conducted on the site of a livestock
5 10 operation as provided in this division shall be available for
5 11 public examination as provided in section 22.2 so long as the
5 12 information cannot be used to identify the livestock producer
5 13 or livestock operation as provided in section 266.46.

5 14 Sec. 9. NEW SECTION. 266.48 LIVESTOCK ODOR MITIGATION
5 15 EVALUATION EFFORT.

5 16 1. If funding is available, Iowa state university shall
5 17 provide for a livestock odor mitigation evaluation effort as
5 18 provided in section 266.42. The effort shall accomplish all
5 19 the following objectives:

5 20 a. Ensure ease of its use and timeliness in producing
5 21 results, including reports and the issuance of a livestock
5 22 odor mitigation certificate as provided in this section.

5 23 b. Ensure a cost-effective process of evaluation.

5 24 c. Provide a level of evaluation that corresponds to the
5 25 complexity of the proposed site of construction, including
5 26 unique characteristics associated with that site.

5 27 2. The livestock odor mitigation evaluation effort shall
5 28 provide for increasing levels of participation by a person who
5 29 requests the evaluation in cooperation with the university as
5 30 follows:

5 31 a. A level one evaluation that provides an opportunity for
5 32 the person to complete a simple questionnaire which may be
5 33 accessed by using the internet without assistance by
5 34 university personnel.

5 35 b. A level two evaluation that provides an opportunity for
6 1 the person to consult with a specialist designated by the
6 2 university who shall assist in performing a comprehensive
6 3 evaluation of the site of the proposed construction.

6 4 c. A level three evaluation which provides an opportunity
6 5 for the person to participate in a community-based odor
6 6 assessment model that uses predictive computer modeling to
6 7 analyze the potential odor intensity, duration, and frequency
6 8 for a neighbor from a livestock operation.

6 9 3. An evaluation may account for all factors impacting
6 10 upon odor exposure as determined relevant by the university.
6 11 The factors may vary based upon the type of evaluation
6 12 performed. Factors which may be considered include but are
6 13 not limited to all of the following:

6 14 a. Characteristics relating to the proposed site including
6 15 but not limited to terrain, weather patterns, surrounding
6 16 vegetative barriers, the proximity of neighbors, and
6 17 contributing odor sources.

6 18 b. The type and size of the structure proposed to be
6 19 constructed and its relationship to existing livestock
6 20 operation structures.

6 21 4. At the completion of an evaluation, the university
6 22 shall provide the participating person with a report including
6 23 its findings and recommendations. A report may vary based
6 24 upon the type of evaluation performed. The report resulting
6 25 from a level one or level two evaluation may recommend that
6 26 the participating person conduct a higher level evaluation. A
6 27 report resulting from a level two or level three evaluation
6 28 may recommend modifications to the design or orientation of
6 29 the livestock operation structure proposed to be constructed,
6 30 the adoption of odor mitigating practices, or the installation
6 31 of odor mitigating technologies.

6 32 5. A participating person who has completed the level of
6 33 evaluation as recommended by the university may request that
6 34 the university issue the participating person a livestock odor
6 35 mitigation evaluation certificate. The university shall issue
7 1 a certificate to the participating person that verifies the
7 2 person's completion of an evaluation that satisfies the

7 3 requirements of this section. The university shall not issue
7 4 a certificate to a participating person who has not completed
7 5 the level of evaluation recommended by the university. The
7 6 certificate shall identify the name of the participating
7 7 person and the site where the construction is proposed.
7 8 However, it shall not include any other information.

7 9 Sec. 10. Section 459.303, subsection 3, Code 2007, is
7 10 amended by adding the following new paragraph:

7 11 NEW PARAGRAPH. d. A livestock odor mitigation evaluation
7 12 certificate issued by Iowa state university as provided in
7 13 section 266.48. The department shall not obtain, maintain, or
7 14 consider the results of an evaluation. The applicant is not
7 15 required to submit the certificate if any of the following
7 16 applies:

7 17 (1) The confinement feeding operation is twice the minimum
7 18 separation distance required from the nearest object or
7 19 location from which a separation distance is required pursuant
7 20 to section 459.202 on the date of the application, not
7 21 including a public thoroughfare.

7 22 (2) The owner of each object or location which is less
7 23 than twice the minimum separation distance required pursuant
7 24 to section 459.202 from the confinement feeding operation on
7 25 the date of the application, other than a public thoroughfare,
7 26 executes a document consenting to the construction.

7 27 (3) The applicant submits a document swearing that Iowa
7 28 state university has failed to furnish a certificate to the
7 29 applicant within thirty days after the applicant requested the
7 30 university to conduct a livestock odor mitigation evaluation
7 31 as provided in section 266.48.

7 32 (4) The application for a permit to expand a confinement
7 33 feeding operation, if the confinement feeding operation was
7 34 first constructed before the effective date of this section of
7 35 this Act.

8 1 (5) Iowa state university does not provide for a livestock
8 2 odor mitigation evaluation effort as provided in section
8 3 266.48, for any reason, including because funding is not
8 4 available.

8 5 Sec. 11. APPLICABILITY. Section 459.303, subsection 3, as
8 6 amended by this Act, shall not apply to require an applicant
8 7 for a permit to construct a confinement feeding operation
8 8 structure to submit a livestock odor mitigation evaluation
8 9 certificate to the department of natural resources, if the
8 10 application was submitted prior to the effective date of the
8 11 section of this Act amending section 459.303, subsection 3.

8 12 Sec. 12. CONTINGENT EFFECTIVENESS. Section 266.48, as
8 13 enacted in this Act, and the section of this Act amending
8 14 section 459.303, subsection 3, take effect only if Iowa state
8 15 university receives moneys appropriated by the Eighty-second
8 16 General Assembly to further a livestock odor mitigation
8 17 research effort as provided in sections 266.42 through 266.45
8 18 as enacted in this Act.

8 19 Sec. 13. EFFECTIVE DATE. The section of this Act amending
8 20 section 459.303, subsection 3, takes effect January 1, 2009.

8 21 EXPLANATION

8 22 This bill provides for the establishment and administration
8 23 of efforts to mitigate odor emitted from livestock operations
8 24 involving swine, beef or dairy cattle, chickens, or turkeys.
8 25 The bill is divided into a research effort to reduce the
8 26 impact of odor and an evaluation effort to assist in siting
8 27 new livestock operations. The efforts are to be conducted by
8 28 Iowa state university in consultation with the department of
8 29 agriculture and land stewardship and the department of natural
8 30 resources.

8 31 RESEARCH EFFORT. One purpose of the bill is to accelerate
8 32 the adoption of affordable and effective odor mitigation
8 33 technologies and strategies by livestock producers.

8 34 The bill includes three specific project classifications:
8 35 (1) on-site applied research to address whether technologies
9 1 and strategies can be successfully implemented across many
9 2 livestock operations, locations, and situations; (2) basic or
9 3 applied research to evaluate technologies or strategies that
9 4 have not been subject to comprehensive scientific scrutiny but
9 5 which demonstrate promise; and (3) basic research to
9 6 investigate emerging technologies and strategies.

9 7 The bill provides that information obtained in connection
9 8 with the research projects conducted on the site of a
9 9 livestock operation is confidential, unless confidentiality is
9 10 waived by the livestock producer.

9 11 The bill requires that Iowa state university submit annual
9 12 interim reports which describe the university's progress in
9 13 carrying out the research projects and make recommendations

9 14 for improving, continuing, or expanding research and for
9 15 disseminating the results of the research to livestock
9 16 producers. The university must submit a final report to the
9 17 general assembly six months after it completes its research
9 18 effort.

9 19 LIVESTOCK ODOR MITIGATION EVALUATION EFFORT. A second
9 20 purpose of the bill is to develop a livestock odor mitigation
9 21 evaluation effort which determines the potential odor exposure
9 22 to persons who would neighbor a new livestock operation as
9 23 proposed to be constructed. The bill provides that the effort
9 24 is contingent upon moneys being appropriated to the university
9 25 to conduct the effort.

9 26 The livestock odor mitigation evaluation effort provides
9 27 for three levels of possible participation by a person who
9 28 requests the evaluation, corresponding to the complexity of
9 29 the proposed site of construction, and provides for an
9 30 increasing degree of involvement by the person and the
9 31 university. At the completion of an evaluation, the
9 32 university provides the person with a report including
9 33 findings and recommendations. A participating person who has
9 34 completed the level of evaluation as recommended by the
9 35 university may request that the university issue the
10 1 participating person a livestock odor mitigation evaluation
10 2 certificate.

10 3 The bill provides that the department of natural resources
10 4 cannot issue a permit for the construction of a confinement
10 5 feeding operation structure which is associated with a new
10 6 confinement feeding operation until the applicant has been
10 7 issued a livestock odor mitigation evaluation certificate.
10 8 However, the applicant is not required to obtain the
10 9 certificate if an exception applies including: (1) the
10 10 confinement feeding operation is twice the minimum separation
10 11 distance required from the nearest object or location from
10 12 which a separation distance is required, (2) the owner of each
10 13 object or location which is less than twice the minimum
10 14 separation distance required from the confinement feeding
10 15 operation executes a document consenting to the construction,
10 16 (3) the applicant submits a document swearing that Iowa state
10 17 university failed to furnish a certificate to the applicant
10 18 within 30 days after the applicant requested the university to
10 19 conduct a livestock odor mitigation evaluation, (4) the
10 20 application is for a permit to expand a confinement feeding
10 21 operation which was established prior to the effective date of
10 22 the bill's provision, or (5) the university does not provide
10 23 for a livestock odor mitigation evaluation effort. In
10 24 addition, an applicant is not required to submit a certificate
10 25 if an application was submitted prior to the effective date of
10 26 the bill's provision.

10 27 The bill's provisions providing for the development of a
10 28 livestock odor mitigation evaluation effort take effect only
10 29 if the university receives moneys to further the odor
10 30 mitigation research effort. Otherwise the provision requiring
10 31 a certificate to accompany an application for a construction
10 32 permit takes effect on January 1, 2009.

10 33 LSB 6414HZ 82
10 34 da/nh/5